

EMPLOYERS' BILL OF RIGHTS

The Employment Development Department (EDD) is committed to applying the employment tax laws of the State of California in an equitable and impartial manner. The Tax Branch of EDD developed this brochure to inform you of your rights during the employment taxation process.



YOUR RIGHT TO COURTEOUS SERVICE

You are always entitled to courteous and timely service from EDD employees. If you believe you have been treated inappropriately, you should contact the employee's supervisor.



YOUR RIGHT TO CONFIDENTIALITY

Information maintained by EDD is confidential and cannot be published or made available for public inspection. However, in certain instances, the law requires this information to be shared with other governmental agencies. When these instances occur, EDD closely follows the law to protect your rights.



YOUR RIGHT TO ADVICE AND ASSISTANCE

You have the right to call upon EDD for accurate information and assistance and to have all your questions answered. EDD's current policy is not to penalize employers for failure to comply with the law if they acted on incorrect instructions from EDD staff.

An Employment Tax Customer Service Representative is available to serve you when you need information or assistance. The representative's local telephone number is listed in the California Employer's Guide (DE 44) and in your local telephone directory under State Government, EDD, Employment Tax Information.

Answers to most questions relating to employer reporting requirements, Unemployment and State Disability Insurance benefits, California Personal Income Tax, and various programs and services

administered by EDD are located in the California Employer's Guide (DE 44). This guide is updated annually and mailed to new and registered employers. Copies may be obtained by telephoning an Employment Tax Customer Service Representative.

If you have workers and are unsure whether they are properly classified, you may request that EDD issue you a written determination. EDD may also provide you with verbal guidance on employee or independent contractor issues and with general information sheets on various classes of employment.

You can also request a copy of EDD's newly developed form, Employment Determination Guide and the Worksheet on Employment Status (form DE 38) which can be used to determine whether a worker is most likely an employee or independent contractor.

EDD also provides employment tax seminars, as well as speakers for groups and organizations on various tax topics related to the California Unemployment Insurance Code.



YOUR RIGHT TO CLEAR AND ACCURATE ACCOUNT STATEMENTS

If EDD believes you owe a tax, you have the right to receive a clear and accurate account statement. Any adjustments made to your account will also be reflected in the statement. If you have questions or believe the statement contains an error, you should contact EDD at the address or telephone number provided on the statement. We encourage you to call or write when you need assistance.



YOUR RIGHT TO REQUEST AN EXTENSION TO FILE OR PAY TAXES

The California Unemployment Insurance Code provides that an extension can be granted for up to 60 days where good cause is shown for a delay.

Under an extension of time to pay, interest must be charged at the current annual rate and will accrue each day from the original delinquent date to the date of payment.



YOUR RIGHT TO REQUEST A WAIVER OF PENALTY

If you are assessed penalties for a late employment tax return or payment, you may request to have the penalties waived. Requests for penalty waivers must be in writing and accompanied by full payment of the employer contributions, employee withholdings, and any accrued interest.

The request must include a detailed explanation showing good cause for the delay and the signature of the person making the request. Penalties may be waived when good cause is shown for a delay in:

- Filing and paying your Annual Reconciliation Return (form DE 7).
- Filing your Quarterly Wage and Withholding Report (form DE 6).
- Filing and paying your Payroll Tax Deposit (DE 88's) or filing your Electronic Fund Transfers.
- Filing and paying an adjustment on the Quarterly Adjustment Form (DE 678).



WHAT CONSTITUTES GOOD CAUSE

In order for good cause to exist, a substantial reason which affords a legal excuse must be present. Each good cause situation must be carefully analyzed to determine whether you appear to have acted in good faith and in the same diligent manner that a prudent business person would have acted under similar circumstances.



YOUR RIGHTS DURING A TAX AUDIT

If your business is selected for an audit, EDD will attempt to schedule the audit at your convenience.

You have the right to an impartial audit and a full explanation of our audit findings.

You have the right to have someone of your choosing be present with you during the audit such as an attorney or accountant. If you cannot attend the audit, or you chose not to attend, you may have someone represent you.



YOUR RIGHT TO APPEAL

When you disagree with an action taken by EDD, we encourage you to discuss the issue(s) with the EDD representative and the office manager.

You may also appeal certain actions to the California Unemployment Insurance Appeals Board.

The California Unemployment Insurance Appeals Board is an independent review board and is not controlled by EDD. Actions that may be appealed to the California Unemployment Insurance Appeals Board are:

- An assessment for employment tax contributions and/or personal income tax and state disability insurance withholdings.
- Denial of a request to transfer an employer's unemployment insurance reserve account.
- Denial of a protest to an unfavorable adjustment to an employer's unemployment insurance contribution rate or the factors used to compute it.
- Denial of a protest to the amount of unemployment insurance benefits charged to an employer's reserve account.
- Denial of a claim for a credit or refund.
- Denial of a request to make a voluntary UI contribution to your reserve account.

When EDD takes an action that may be appealed, you will be notified by mail. To begin the appeal process, you must file a petition. The notice EDD mails to you will explain your petition rights and responsibilities. Please read all EDD notices carefully as strict time limits apply for filing petitions.



PAYMENT OF TAXES DUE

Employers have a legal obligation to voluntarily report and pay employment taxes and withholdings when due. Personal income tax and disability insurance funds should be deposited timely since these funds are withheld in trust from employees' wages.

Although the California Unemployment Insurance Code does not provide for payment plans, if

immediate and full payment of employment taxes creates a financial hardship, a payment plan may be requested. Payment plans will not be granted in cases where a commercial loan or other means are available to pay the liability. Contact your EDD representative for information on payment plans or to request a payment proposal information sheet.

When a payment plan is approved, it is important to adhere to the terms of the agreement and to submit all future returns and payments timely. Failure to do so will initiate immediate collection action without further notice.

If, during the course of an approved payment plan, it is discovered you are able to pay the tax in full, the agreement may be canceled. The agreement may also be canceled if it is discovered that pertinent financial information was withheld.

In all instances of an approved payment plan, EDD will file a state tax lien. Additionally, any refunds due you by any agency of the State of California will be automatically applied to the unpaid tax.

In addition to a payment proposal, an Offers In Compromise program has been established for out of business accounts. Contact your local Employment Tax Customer Service Office for eligibility requirements.

If EDD finds it necessary to initiate collection of a tax, the following actions may be taken:

- Filing a Notice of State Tax Lien against your real or personal property. Recorded liens will be released when the tax has been paid in full or if the lien was filed in error.
- Issuing a Notice of Levy to financial institutions or other parties. However, EDD will release levies on payroll funds if the payroll was issued prior to the levy.
- Issuing a warrant to seize and sell business and/or personal assets. As a matter of policy, EDD will not seize or sell the primary residence of a tax debtor.
- Issuing an Earnings Withholding Order for Taxes. No more than 25 percent of your gross wages may be withheld. You have the right to protest this action if it causes a financial hardship. A hearing officer will determine if the withholding order should be upheld, modified, or released. Information concerning your right to a hearing is included in your copy of the withholding order.

- Filing of criminal charges for certain violations of the California Unemployment Insurance Code.

This brochure is for general information only, and does not have the force or effect of law, rule, or regulation.



OFFICE OF THE TAXPAYER RIGHTS ADVOCATE

The EDD's Tax Branch has established the Office of the Taxpayer Rights Advocate. The Taxpayer Rights Advocate is responsible for providing a clear, consistent focus on protecting the rights of the taxpayer.

Incorporated within the Office of the Taxpayer Rights Advocate is the Problem Resolution Office (PRO), which is responsible for protecting the rights of taxpayers during any phase of the employment tax administration, assessment, and collection process, while also protecting the interests of the state.

If you are unable to resolve an employment tax problem with an EDD representative and the office manager, you may contact the PRO for assistance.

The PRO will review the issues and facts of your case to ensure that your rights have been protected. The PRO will also work to facilitate a resolution to your problem.

You may reach the PRO at:

Employment Development Department
Office of the Taxpayer Rights Advocate, MIC 93
P.O. Box 826880
Sacramento, CA 94280-0001
(916) 654-8957

The California State Employment Development Department (EDD), as a recipient of federal and state funds, is an equal opportunity employer/program and is subject to Section 504 of the Rehabilitation Act and the Americans with Disabilities Act (ADA).

You can obtain information about accommodations for disabilities by contacting your local EDD office. The number is listed in the telephone directory under "State of California, Employment Development Department."

Hearing-impaired persons can reach EDD through the California Relay Service, 1-800-735-2929.